

DEPARTMENT OF BENEFIT PAYMENTS



August 16, 1974

ALL-COUNTY LETTER NO. 74-166

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: WAITS v. SWOAP

REFERENCE:

On July 2, 1974, the California Supreme Court issued a decision in the case of Waits v. Swoap. In this decision, the Court affirmed a March 23, 1972 Alameda County Superior Court order which invalidated EAS § 44-115.611. The Waits' decision prohibits the Department from presuming that nonneedy caretaker relatives are making an in-kind contribution of housing and utilities to AFDC recipient children in their care. The decision requires that there be a determination of whether a nonneedy relative intends to make such a contribution. Further, it is now necessary to determine the actual value of any voluntary contribution which the caretaker relative wishes to make.

In order to implement the Supreme Court's decision, you should immediately cease to apply EAS § 44-115.61 in determining eligibility and grant amounts for all cases in which an AFDC recipient child is living with a nonneedy relative. We are currently in the process of preparing amended regulations which will provide for a determination of whether and in what amount nonneedy relatives wish to make voluntary contributions to AFDC recipient children in their care. These regulations will be forwarded to you shortly. Until such amended regulations are issued, no in-kind income due to shared housing and utilities shall be attributed to AFDC recipient children living with nonneedy caretaker relatives.

OBSOLETE

Superseded by

ACL 77-15

Issued

3-17-77

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Due to the Supreme Court's decision in Waits, it will also be necessary to provide for redetermination of eligibility and grant amounts for AFDC recipient children living with nonneedy relatives who have been affected by EAS § 44-115.611. We are developing the means to provide for these redeterminations, which shall include the entire period since October 1971. Further instructions will be forthcoming very shortly.

Sincerely,

A handwritten signature in dark ink, appearing to read "David B. Swoap". The signature is fluid and cursive, with a long horizontal stroke at the end.

DAVID B. SWOAP
Director

cc: CWDA

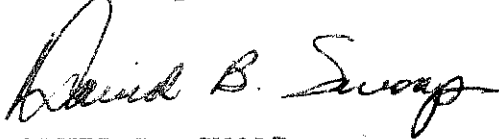
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For purposes of this Judgment, an application for retroactive benefits shall be treated as a current application for AFDC benefits in terms of notice of determination of eligibility and appeal rights.

Copies of the English and Spanish language notice posters will be sent to you around November 1, 1974, and a copy of each should be displayed in the public area of each county welfare office and district office through December 31, 1974.

Any questions regarding this letter should be directed to the AFDC Program Operations Bureau, telephone number (916) 445-4458.

Sincerely,

A handwritten signature in cursive script, reading "David B. Swoap". The signature is written in dark ink and is positioned above the typed name and title.

DAVID B. SWOAP
Director

cc: CWDA

APPLICATION

1. STATE NUMBER (IF YOU KNOW IT)

NAME

3. ADDRESS

4. TELEPHONE NUMBER

5. ABOUT WHEN DID YOU SEPARATE FROM THE FATHER (OR MOTHER) OF YOUR CHILDREN?
(THE SEPARATION MUST HAVE BEEN BETWEEN FEBRUARY 2, 1967 AND OCTOBER 31, 1969,
IN ORDER FOR YOU TO GET THESE BACK BENEFITS.)

DATE

6. DID YOU GET BACK TOGETHER?

☐ YES ☐ NO IF YES, ABOUT WHEN?

7. ABOUT WHEN DID YOU MAKE WRITTEN APPLICATION FOR AFDC?

8. IN WHAT COUNTY DID YOU MAKE WRITTEN APPLICATION FOR AFDC?

9. DURING THE 90 DAYS BEGINNING WITH THE FIRST DAY OF YOUR SEPARATION, DID YOU RECEIVE ANY INCOME? (INCLUDE ANY MONEY RECEIVED UNDER THE COUNTY'S
GENERAL RELIEF/GENERAL ASSISTANCE PROGRAM.)☐ YES ☐ NO IF YES, ABOUT HOW MUCH?

10. FROM WHOM DID YOU RECEIVE IT?

I BELIEVE THAT I WAS ELIGIBLE FOR AFDC, EXCEPT THAT I HAD NOT BEEN SEPARATED FOR AT LEAST 90 DAYS
WHEN I APPLIED.I DECLARE UNDER PENALTY OF PERJURY THAT ALL OF THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY
KNOWLEDGE AND BELIEF.

SIGNED

DATE

TEMP 1001 (10/74)

STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY

DEPARTMENT OF BENEFIT PAYME

FORMULARIO

1. NÚMERO AFDC

2. NOMBRE

3. DIRECCIÓN

4. NÚMERO DE TELÉFONO

5. ¿APROXIMADAMENTE CUÁNDO SE SEPARÓ DEL PADRE (O LA MADRE) DE LOS NIÑOS?

FECHA

6. ¿SE RECONCILIÓ DESPUÉS DE LA SEPARACIÓN?

☐ SÍ ☐ NO ¿APROXIMADAMENTE CUÁNDO?

7. ¿APROXIMADAMENTE CUÁNDO LLENÓ LA FORMA PARA RECIBIR ASISTENCIA AFDC?

8. ¿EN QUÉ CONDADO PIDIÓ ASISTENCIA AFDC?

9. ¿DURANTE LOS 90 DÍAS, COMENZANDO CON EL PRIMER DÍA DE LA SEPARACIÓN, RECIBIÓ ALGUN INGRESO? (TIENE QUE INCLUIR INGRESO CUALQUIER QUE RECIBIÓ DEL
CONDADO BAJO EL PROGRAMA DE ASISTENCIA GENERAL (GENERAL RELIEF)☐ SÍ ☐ NO ¿CUÁNTOS INGRESOS RECIBIÓ DURANTE ESTE PERÍODO?

10. ¿DE QUIÉN LOS RECIBIÓ?

CREO QUE ESTUVIERA CALIFICADO PARA ASISTENCIA AFDC, CON EXCEPCIÓN DE QUE CUANDO PEDÍ LA ASISTENCIA
NO VIVÍ APARTE DEL PADRE (O LA MADRE) DE LOS NIÑOS 90 DÍAS POR LO MENOS.DECLARO BAJO PENA DE PERJURIO QUE TODAS ESTAS DECLARACIONES AQUÍ DENTRO SON CORRECTAS A MI LE
SABER Y ENTENDER.

FIRMA

FECHA

TEMP 1001 (10/74) SPANISH

IMPORTANT NOTICE

READ THIS CAREFULLY. YOU OR SOMEONE YOU KNOW MAY BE ELIGIBLE FOR BACK PAYMENTS FROM THE WELFARE DEPARTMENT.

If you were denied AFDC between February 2, 1967, and October 31, 1969, ONLY BECAUSE the father (or mother) of your children had not been out of the home for 90 days and no lawsuit for divorce, annulment, or separate maintenance had been filed by either of you, the welfare department will pay you the amount of money you would have received if you had been given AFDC during the 90-day period.

To get these back payments, fill out the form on the back of this Notice and mail it, or bring it in person, to your eligibility worker not later than December 31, 1974.

If you lived in another county at the time you were denied these benefits, you must send or bring in person this application to that county because they have your records pertaining to that denial. REMEMBER, to get these back payments, you must have met all the conditions for AFDC, EXCEPT that the other parent of your children had not been gone from your home for 90 days when you asked for AFDC.

NOTICIA IMPORTANTE

LEA ESTO CON CUIDADO. USTED O ALGUNA PERSONA QUE USED CONOZCA PUEDE SER CALIFICADO A RECIBIR PAGOS RETROACTIVOS DEL DEPARTAMENTO DE BIENESTAR.

Si a Usted le fue negado la Asistencia Para Familias con Niños Dependientes (AFDC) entre el 2 de Febrero de 1967 y el 31 de Octubre de 1969, solo porque el padre (o la madre) de sus niños no había estado ausente de la casa por lo menos 90 días, y no se había demandado divorcio, anulación o manutención aparte por cualquiera de Ustedes, el Departamento de Bienestar le pagará a Usted la cantidad que habría recibido si se le hubiera pagado AFDC durante el período de los 90 días.

Para recibir esos pagos retroactivos, tiene que llenar la forma en blanco al reverso de esta noticia y devolverla a la oficina de bienestar a que pertenece no más tarde que el 31 de Diciembre de 1974.

Si Usted vivió en otro condado durante el período en que le negaron estos beneficios, mande Usted por correo, o presente en persona; esta forma a ese condado porque es allí que tienen sus documentos.

Es importante saber que, para recibir estos pagos retroactivos, Usted tiene que haber cumplido con todos los requisitos del programa AFDC, con la excepción de que no es necesario que el padre (o la madre) de sus niños hubiera estado ausente de la casa por 90 días cuando Usted pidió AFDC.